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9 Attorneys for United States of America

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 SAN FRANCISCO DIVISION

13
14 UNITED STATES OF AMERICA,) No. CR 15-529-CRB
15 Plaintiff,) UNITED STATES' PRETRIAL CONFERENCE
16 v.) STATEMENT & TRIAL BRIEF
17 WING WO MA,) Pretrial Conference: October 1, 2019
18 Defendant.) Trial Date: October 15, 2019

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20 The United States respectfully submits its Pretrial Conference Statement and Trial Brief in the
21 above-captioned matter.

22 **BACKGROUND**

23 This case has been set for trial six times. The Court is familiar with the history of this case.
24 Defendant Wing Wo Ma is charged in the Third Superseding Indictment with conspiracy to manufacture
25 and to distribute and to possess with intent to distribute 100 or more marijuana plants, in violation of 21
26 U.S.C. §§ 841(a)(1), (b)(1)(B), and 846 (Count One); possession of a firearm in furtherance of, and use,
27 carrying, and discharging a firearm during and in relation to, and in furtherance of, the drug trafficking
28 conspiracy charged in Count One, in violation of 18 U.S.C. § 924(c)(1)(A) (Count Two); use of a

1 firearm causing murder, in violation of 18 U.S.C. § 924(j) (Count Three); and conspiracy to commit
2 honest services wire fraud and bribery, in violation of 18 U.S.C §§ 371, 666, 1343, and 1346 (Count
3 Four). ECF No. 144. The United States anticipates that this trial will last five weeks.

4 **JENCKS, BRADY, AND GIGLIO DISCLOSURES (Crim. L.R. 17.1-1(b)(1-3))**

5 The United States has complied, and will continue to comply, with its discovery obligations under
6 *Brady, Giglio*, and the Jencks Act, 18 U.S.C. § 3500, and Federal R. Crim. P. 26.2. The government has
7 already produced discovery including reports summarizing witness statements, transcripts and
8 recordings of prior witness statements, and grand jury testimony of prior witness statements.

9 The United States believes that it has supplied all materials that may be relevant as *Brady*
10 material, and recognizes its obligation to continue to provide any such materials within its possession,
11 custody, or control. The government also understands its continuing duty to comply with Rule 16, and
12 will do so.

13 **STIPULATIONS (Crim. L.R. 17.1-1(b)(4))**

14 The parties continue to discuss possible stipulations that would eliminate inefficient testimony
15 regarding undisputed facts. Should the parties reach stipulations, the estimated trial length could be
16 reduced.

17 **NEED FOR INTERPRETERS (Crim. L.R. 17.1-1(b)(5))**

18 The United States will arrange for interpreters for witnesses it calls in its case in chief, which
19 currently include Cantonese and Vietnamese language interpreters. The government will provide the
20 defense with information about the interpreters' qualifications as those interpreters are identified and
21 before they are called to act as interpreters during trial.

22 **DISMISSAL OF COUNTS / ELIMINATION OF ISSUES (Crim. L.R. 17.1-1(b)(6))**

23 The United States does not currently intend to dismiss any of the four counts in the Third
24 Superseding Indictment.

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1 **JOINDER / SEVERANCE (Crim. L.R. 17.1-1(b)(7))**

2 There are no joinder or severance issues.

3 **IDENTIFICATION OF INFORMERS / PRIOR CONVICTIONS (Crim. L.R. 17.1-1(b)(8))**

4 Issues related to defendant Ma's three prior misdemeanor convictions are the subject of a
5 motion *in limine* by the defense. The government does not currently intend to offer any evidence of
6 the defendant's prior convictions in its case in chief, though the defendant could open the door to
7 such evidence through his own testimony depending on the substance of the testimony.

8 The defense has not disclosed any witnesses it intends to call at trial. If the defense
9 identifies such witnesses, the government may seek to admit prior convictions of the witnesses that
10 are relevant for impeachment purposes.

11 **WITNESSES (Crim. L.R. 17.1-1(b)(9))**

12 On September 12, 2019, the United States filed the Third Revised Witness List. ECF No. 159.
13 The government respectfully reserves the right to amend the list prior to and during trial as necessary.

14 **EXHIBITS (Crim. L.R. 17.1-1(b)(10))**

15 On September 12, 2019, the United States filed the Second Revised Exhibit List. ECF No. 158.
16 The government respectfully reserves the right to amend the list prior to and during trial as necessary.

17 **OBJECTIONS TO EVIDENCE (Crim. L.R. 17.1-1(b)(11))**

18 The United States may raise evidentiary objections to exhibits and testimony offered by the
19 defense as notice of such exhibits and testimony are disclosed to the government.

20 **LEGAL ISSUES (Crim. L.R. 17.1(b)(12))**

21 The United States reserves the right to proceed at trial on all available theories of defendant Ma's
22 liability. These theories of liability include, but are not limited to, aiding and abetting liability and
23 *Pinkerton* liability.

24 **SCHEDULING/JURY SELECTION/JURY INSTRUCTIONS (Crim. L.R. 17.1-1(b)(13)-(14))**

25 Jury selection is set for October 10, 2019, at 9:15 a.m. The United States has already filed its
26 proposed Juror Questionnaire. ECF No. 160. The government previously filed joint proposed jury
27 instructions and a proposed verdict form. ECF Nos. 107 & 108. The government will be filing revised
28 proposed jury instructions and a revised proposed verdict form shortly. The government reserves the

1 right to amend those filings at any time prior to and during the trial if necessary.

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3 DATED: September 27, 2019

Respectfully submitted,

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DAVID L. ANDERSON
United States Attorney

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/s/

6 WILLIAM FRENTZEN
7 CHRISTIAAN HIGHSMITH
Assistant United States Attorneys

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